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**PLAINTIFFS****DEFENDANTS**

JOHNSON, Carlyle

BUSBY, Doyle, MILLER, Donald  
and GAUGER, Myron**CAUSE**

Petition for Removal pursuant to 28 U.S.C. Sec. 1442(a)

**ATTORNEYS**

Roger Tellinghuisen  
 A. P. Fuller  
 P. O. Box 898  
 Lead, S.D. 57754

U.S. Attorney  
 John J. Ulrich

CHECK  
HERE  
IF CASE WAS  
FILED IN  
FORMA

**FILING FEES PAID**

DATE	RECEIPT NUMBER	C.D. NUMBER	STATISTICAL CARDS	
			CARD	DATE MAILED
			JS-5	IS-6

DATE	NR.	PROCEEDINGS
<u>1979</u>		
11-8	1	Civil Cover Sheet filed
11-8	2	Petition For Removal filed
11-8	3	Verification filed
11-8	4	Notice of Filing Petition For Removal filed
11-21	5	Stipulation and Order granting Govt. additional 60 days to answer filed. Notice of Entry and copy of order del. U.S. Atty. and A.P. Fuller.
<u>1980</u>		
Jan. 14	6	Answer filed.
Jan. 21	7	Amended Answer filed.
Apr. 7	8	Defendant's Response to Plaintiff's Motion to Produce filed.
Apr. 18	9	Request to Produce from Plaintiff's to Defendants
May 7	10	Interrogatories by Defendants filed
June 13	11	Stipulation and Order that plff. has additional 20 days to answer dfdt.'s interrogatories filed.
June 13		Notice of Entry and copy of Order mailed to A. P. Fuller and U.S. Atty. SF.
July 11	12	Plaintiff's Answers to Defendants' Interrogatories filed.
July 16	13	Stipulation and Order Dismissing Count 4 of plaintiff's complaint filed.
July 16		Notice of Entry and copy of Order mailed to Roger Tellinghuisen and U.S. Atty., SF.
Aug. 11	14	Defendant United States' Motion to Compel Answer to Interrogatories filed. Copies fur. to court.
Aug. 22	15	Plaintiff's Response to Defendant's Motion to Compel Answers to Interrogatories filed.
Sept. 5	16	Motion to Dismiss or for Summary Judgment by Dfdts. with Exhibits A thru D filed. Copy fur. court
Sept. 5	17	Memorandum of Law in Support of Motion to Dismiss or for Summary Judgment filed
Sept. 5	18	Defendant United States' Subsequent Motion to Compel Answers to Interrogatories filed
Sept. 22	19	Memorandum of Law in Opposition to Defendants' Motion to Dismiss or For Summary Judgment filed.
Dec. 1	20	Letter to counsel setting time and date for Hearing on Defendant's Motion to Dismiss and for Summary Judgment filed.
<u>1981</u>		
Jan. 8		Enter Hearing on Motion to Compel Answers to Interrogatories before t Hon. Donald J. Porter, Judge presiding.
Jan. 8		Ordered that plff. answer dfdt.'s interrogatories #3, 4C, 4E, and 12 within 15 days, and interrogatories #15 and 31 within 30 days.
Jan. 13	21	Order Denying Defendant's Motion to Dismiss or for Summary Judgment filed.
Jan. 13		Correct copy entered in 1981 N.D. Order Book, page 5.
Jan. 13		Notice of Entry and copy of Order mailed to U.S. Atty., SF and to Rog Tellinghuisen.
Jan. 13	22	Order that plff. shall answer interrogatories filed.
Jan. 13		Correct copy entered in 1981 N.D. Order Book, page 6.
Jan. 13		Notice of Entry and copy of Order mailed to U.S. Atty., SF and to Rog Tellinghuisen.
Jan. 23	23	Plaintiff's Additional Answers to Interrogatories along with attachme filed.
Feb. 5	24	Plaintiff's Additional Answers to Interrogatories (Second Set) filed.
Feb. 12	25	Plaintiff's Factual Summary for trial filed
Apr. 1	26	Plaintiff's Brief filed
Apr. 6	27	Defendant United States' Memorandum in Support of Jurisdiction filed.
Aug. 10	28	Memorandum Opinion filed

## IL DOCKET CONTINUATION SHEET

FPI-MI-3-14-75-50M-3511

PLAINTIFF		DEFENDANT	DOCKET NO CIV79-1045
			PAGE <u>2</u> OF <u>2</u> PAGES

DATE 81	NR.	PROCEEDINGS
. 10	29	Order of Court finding jurisdiction in this Court and setting Court Trial date for September 14, 1981 at Aberdeen, filed
. 10		Correct copy entered in 1981 N.D. Order Book, page 56
. 10		Notice of Entry and copy of Order mailed U.S. Atty. and A.P. Fuller
. 14	30	Motion for Continuance filed. Copies fur. to court.
. 20	31	Order continuing case until 10/19/81 at 9:30 am filed.
. 20		Correct copy entered in 1981 N.D. Order Book, page 57.
. 20		Notice of Entry and copy of Order mailed to A. P. Fuller and U.S. Atty., SF.
. 20	32	Pre-Trial Order for Jury Trial filed.
. 20		Notice of Entry and copy of Order mailed to A. P. Fuller and U.S. Atty., SF.
t.24	33	Deposition of Doyle Busby taken on behalf of the plaintiff filed.
t.28	34	Letter to counsel stating that necessary materials be furnished to Court no later than 10 days prior to trial filed.
. 1	35	Letter to Court from defendants showing the U.S. does not resist Plff's demand for jury trial filed
. 1	36	Letter to Court from plaintiffs renewing request for jury trial filed.
. 9	37	Motion to Dismiss filed. Copies fur. to court.
. 9	38	Pre-Trial Statement of Defendants filed.
. 13	39	Plaintiff's Trial Brief filed
. 13	40	Plaintiff's List of Witnesses filed
. 13	41	Plaintiff's Response to Pretrial Order for Jury Trial filed
. 13	42	Plaintiff's Requested Voir Dire Questions filed
. 13	43	Plaintiff's Proposed Jury Instructions filed
. 13	44	Affidavit of Mailing from Dorothy M. Trussell filed
. 15	45	Notice of Re-scheduling time for Jury Trial on 10/19/81 at 11:00 AM filed
. 19	46	Making Jury List. Filing same. Enter Jury Trial Proceedings before the Hon. Donald J. Porter, Judge presiding
19		Enter Jury Trial Proceedings before the Hon. Donald J. Porter, Judge presiding
20		Plaintiff's Objections to Court's Proposed Jury Instructions filed
20	47	Exhibit List filed
21	48	Court's Instruction No. 21 in regard to "discretionary act" filed
. 21	49	Verdict in favor of plaintiff and against all defendants and assess plaintiff's compensatory damages at the sum of \$1.00 filed
. 21	50	Jurors Interrogatories filed
. 21	51	Court's Instructions to the Jury filed
. 21	52	Enter Jury Trial Proceedings before the Hon. Donald J. Porter, Judge presiding
. 23	53	Judgment on Jury Verdict for plaintiff filed Correct copy entered in 1981 N.D. Order Book, page 88
23		Enter Memo of Judgment in J.L.D.
23		Notice of Entry and copy of Judgment mailed A.P. Fuller and John Ulrich
28	54	Motion for Judgment Nonwithstanding the Verdict by Dfdt's. filed Copy fur. court
. 29	55	Plaintiff's Motion for New Trial on Question of Damages or in the Alternative Motion for New Trial (Rule 59, FRCP) filed. Copy fur. court
. 29	56	Memorandum in Support of Motion filed
. 29	57	Bill of Costs filed
. 3	58	Order setting time and date to show cause and that Plaintiff is restrained from contacting any juror filed.

OVER

DC-111A REV. (1/75)

## CIVIL DOCKET CONTINUATION SHEET

FPI-MI—3-14-75-50M-3511

PLAINTIFF		DEFENDANT	DOCKET NO. <u>79-10</u>
JOHNSON, Carlyle		BUSBY, Doyle, et al.	PAGE <u>3</u> OF <u>PA</u>
DATE	NR.	PROCEEDINGS	PAGE <u>3</u> OF <u>PA</u>
11-3-81		Notice of Entry and copy of Order mailed A.P.Fuller and U.S. Attorney, Sioux Falls.	
11-3-81		Correct copy entered in 1981 N.D. Order Book, Page 89	
11-9-81	59	PLAINTIFF'S RESPONSE to Defendants' Motion Notwithstanding the Verdict Filed	
11-12-81	60	DEFENDANTS' RESISTANCE to Plaintiff's Motion for New Trial and Response to Plaintiff's Analysis of 28 USC 2680(a) Filed. Copy fur. Court.	
11-16-81	61	Affidavit of Carlyle Johnson filed.	
11-16-81	62	Stipulation as to plaintiff's association to jurors filed. Enter Hearing on Defendant's Motion for Judgment Notwithstanding Verdict and Plaintiff's Motion for New Trial before the Hon. Donald J. Porter, Judge, presiding. Ruling reserved.	
12-29			
1982			
Feb. 5	63	Deposition of Donald Miller taken on 9/23/82 on behalf of Plff. f	
Feb. 5	64	Deposition of Myron Gauger taken on 9/23/81 on behalf of Plff. f	
Mar. 29	65	Memorandum Opinion filed.	
Mar. 29		Correct copy entered in 1982 N.D. Order Book, page 30.	
Mar. 29	66	Order Denying Plaintiff's Motion for New Trial and Denying Defendant's Motion for Judgment Notwithstanding the Verdict filed.	
Mar. 29		Correct copy entered in 1982 N.D. Order Book, page 31.	
Mar. 29		Notice of Entry and copy of Order mailed to U.S. Atty., SF and to A. P. Fuller.	
Apr. 8	67	Notice of Appeal filed.	
Apr. 8		C. copy of Notice of Appeal del. Richard B. Thiewes, Court Reporter	
Apr. 8		3 c. copies of Appeal mailed to Robert D. St. Vrain, Clerk.	
Apr. 8		Notice of Entry and copy of Notice of Appeal mailed to John Ulrich and Roger Tellinghuisen.	
Apr. 8	68	Copy of letter to Robert D. St. Vrain, Clerk filed.	
Apr. 14	69	Defendants' Designation of Record filed.	
Apr. 27	70	Trial Transcript filed	
Apr. 28	71	NOTICE OF APPEAL filed.	
Apr. 28		C. copy del. Richard B. Thiewes, Court Reporter, Room 401, Federal Bdg. & U.S. Post Office, Pierre, SD.	
Apr. 28		3 c. copies mailed to Robert D. St. Vrain, Clerk.	
Apr. 28		Notice of Entry and copy of Appeal mailed to Carlyle Johnson and John J. Ulrich.	
Apr. 28	71	Copy of LETTER to Robert D. St. Vrain, Clerk filed.	
May 11	72	Plaintiff-Appellee's Designation of Record filed	
May 11	73	Plaintiff-Appellant's Designation of Record filed	
May 20		MAILING Designation of Record to Robert D. St. Vrain, Clerk.	
May 26	74	NEW Notice of Appeal filed.	
June 21	75	DEFENDANTS' Supplemental Designation of Record on Appeal filed	
June 21		3 c. copies mailed to Robert D. St. Vrain, Clerk	
June 21	76	Copy of LETTER to Robert D. St. Vrain, Clerk filed	
1983			
May 12	77	OPINION from U.S. Court of Appeals Reversing and Remanding Judgment of this Court and Affirming Cross-Appeal filed.	
May 12	78	JUDGMENT from U.S. Court of Appeals Reversing and Remanding Judgment of this Court filed.	
May 12		C. copy of Judgment mailed to A. P. Fuller, Carlyle Johnson and John J. Ulrich.	
May 12	79	JUDGMENT from U.S. Court of Appeals Affirming Judgment of this Court filed.	

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## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO.
Carlyle Johnson	Doyle Busby, et al.	79-1(
		PAGE ____ OF ____ PA

DATE	NR.	PROCEEDINGS
<u>1983</u>		John J. Ulrich.
Aug. 19	80	AMENDED JUDGMENT on Jury Verdict for plaintiff filed.
Aug. 19		Correct copy entered in 1983 N.D. Order Book, page 78
Aug. 19		Enter Memo of Judgment in J.L.D.
Aug. 19		Notice of Entry and copy of Amended Judgment mailed A.P. Fuller and U.S. Atty., SF along with Bill of Costs.
Aug. 29	81	BILL OF COSTS filed.
Sept. 23	82	MOTION and ORDER vacating costs of plaintiff based upon U.S. Eighth Circuit Court of Appeals' decision filed
Sept. 23		Notice of Entry and copy of Motion and Order mailed A.P. Fuller & John J. Ulrich
Nov. 2	83	RECEIPT for returning Gov't. exhibits filed.
Dec. 28	84	LETTER filed. Re: Destruction. Depositions on behalf of Plaintiff destroyed.
Dec. 28	85	LETTER filed. Re: Destruction. Plaintiff's Exhibits destroyed.